

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

OLYMPIA LEVINSON STIEGELE,)
Plaintiff,)
v.)
BERNARD C. BAILEY, PAUL T. PRINCIPATO,)
PETER NESSEN, THOMAS J. REILLY, DENIS)
K. BERUBE, B.G. BECK, CHARLES E. LEVINE,)
and WILLIAM K. AULET,)
Defendants,)
v.)
VIISAGE TECHNOLOGY, INC.,)
Nominal Defendant.)
)

Case No. 05-10677 (MLW)

**DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S
VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT**

Defendants Bernard C. Bailey, Paul T. Principato, Peter Nessen, Thomas J. Reilly, Denis K. Berube, B.G. Beck, Charles E. Levine, and William K. Aulet move, pursuant to Fed. R. Civ. P. 23.1 and Fed. R. Civ. P. 12(b)(6), to dismiss plaintiff's Verified Shareholder Derivative Complaint ("Complaint") in its entirety and with prejudice. The grounds for this motion are that plaintiff failed to make pre-suit demand on the board of directors of nominal defendant Viisage Technology, Inc. (the "Company") and her Complaint fails to include specific, particularized allegations of a majority of the board's interestedness or lack of independence such that pre-suit demand is excused. The Complaint also fails to allege that any defendant caused the Company

any harm, and the exculpatory provision in the Company's By-Laws precludes liability by any of the director defendants on any of plaintiff's claims. The grounds are further set forth in the accompanying memorandum of law.

WHEREFORE, defendants respectfully ask the Court to dismiss plaintiff's Complaint in its entirety and with prejudice.

BERNARD C. BAILEY, PAUL T. PRINCIPATO,
PETER NESSEN, THOMAS J. REILLY,
DENIS K. BERUBE, B.G. BECK,
CHARLES E. LEVINE, and WILLIAM K. AULET

By their attorneys,

/s/ John R. Baraniak, Jr.

Mitchell H. Kaplan (BBO #258940)
John R. Baraniak, Jr. (BBO #552259)
Alokanda S. Bose (BBO #658108
CHOATE, HALL & STEWART LLP
Two International Place
Boston, Massachusetts 02110
(617) 248-5000

Dated: February 13, 2006

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